

CAI
TC
- 68 ISI

Government
Publications



3 1761 11973228 7

International Code
on Anti-Dumping Policies

Canada, Trade & Commerce Dept
[General publications]
[Pg. 2] Kennedy Round results. [Press release and
complete text of the anti-dumping code]

copy 2
NO. 4

INTERNATIONAL CODE ON ANTI-DUMPING POLICIES

At the meeting of Trade Ministers in May 1963 in Geneva, which agreed on the terms of reference for the Kennedy Round, it was decided these negotiations should deal with non-tariff barriers as well as with tariffs. As the negotiations proceeded, an international code to bring greater uniformity in the use of anti-dumping duties was proposed. The GATT (Article VI) already provides that anti-dumping may be applied against dumping if such dumping causes or threatens material injury to an established industry or materially retards the establishment of an industry. The code provides for equitable and open administrative procedures, established safeguards against harassment of exporters and importers, safeguards the legitimate interests of domestic producers, and ensures that anti-dumping practices do not constitute an unjustifiable impediment to trade.

The code applies only to anti-dumping duties; it does not apply to countervailing duties, although these too fall under Article VI of the GATT.

In broad terms, the code deals with:

- (i) determination of the fact of dumping;
- (ii) determination of injury, threat of injury, or retardation of establishment of an industry;
- (iii) investigation and administration procedures; and
- (iv) imposition of provisional measures and the collection of anti-dumping duties.

(i) Determination of Dumping - Article 2 defines dumping, sets out the basis for determining the margin of dumping, and provides that in comparing the export price with the home market price in the country of export "due allowances shall be made in each case on its merits for the differences in conditions and terms of sale, for the differences in taxation and for the other differences affecting price comparability".

(ii) Determination of Injury - Article 3 provides that "a determination of injury shall be made only where the authorities concerned are satisfied that the dumped imports are demonstrably the principal cause of material injury or of threat of material injury to a domestic industry or the principal cause of material retardation of the establishment of such an industry". It also sets out the kinds of considerations that the national authorities should need to take into account in determining injury.

"Domestic industry" is primarily defined in Article 4 as "the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products".

(iii) Investigation and Administration Procedures - Article 5 to 7 provide that anti-dumping investigations may be initiated on the basis of a complaint by the domestic industry affected, or by the national authorities if they have evidence both of dumping and of injury being caused. Evidence as to dumping and injury are to be considered together when deciding whether or not to proceed with an investigation, and thereafter not later than the point at which provisional measures are applied.

The code does not set any time limit to the preliminary part of an investigation, but an enquiry must be terminated within 90 days from the date on which provisional measures are taken.

(iv) Imposition of Provisional Measures and Collection of Anti-Dumping Duties - Provisional measures may be taken only following a preliminary decision that there is dumping, accompanied by sufficient evidence of injury. Provisional measures are not to be imposed for longer than three months.

When an anti-dumping duty is imposed in respect of any product, it shall be levied "in the appropriate amounts in each case, on a non-discriminatory basis on imports of such product from all sources found to be dumped and causing injury".

In general, the code provides that the duty shall not be imposed retroactively (i.e., to imports before the finding of injury) except when actual injury has been caused by dumping and when the authorities determine dumping was deliberate. Other circumstances in which the duties may be levied retroactively are set out in Article 11.

How does the Code Affect Canadian Exports?

Canadian exporters stand to gain by an assurance that our exports will not be exposed to the arbitrary use of anti-dumping duties by other countries. For customs unions such as the European Economic Community, and one of our major trading partners, Japan, who do not as yet have anti-dumping systems, the code will provide a basis and a framework for the elaboration of anti-dumping legislation, regulations and their administration.

Implications for Canadian Producers

The code provides that Canada - as other countries - has the right to apply anti-dumping duties quickly and effectively when dumping injures domestic producers, threatens injury, or retards the establishment of an industry.

New Legislation

The code is to enter into force on July 1, 1968.

It will be necessary for Canada to have new legislation to give effect to the code. The Government will provide an opportunity for interested Canadians to express their ideas and views as to how the code should be translated into Canadian law. To this end, the Government proposes to set up a committee of officials from the departments concerned. In order to give the business community sufficient time to study the code and to formulate its views, it is not envisaged that these consultations will be held before mid-September or early October.

Implications for Canadian Producers

The code provides that Canada - as other countries - has the right to apply anti-dumping duties quickly and effectively when dumping injures domestic producers, threatens injury, or retards the establishment of an industry.

New Legislation

The code is to enter into force on July 1, 1968.

It will be necessary for Canada to have new legislation to give effect to the code. The Government will provide an opportunity for interested Canadians to express their views and views as to how the code should be translated into Canadian law. To this end, the Government proposes to set up a committee of officials from the departments concerned, in order to give the business community sufficient time to study the code and to formulate its views. It is not envisaged that these consultations will be held before mid-September or early October.

Digitized by the Internet Archive
in 2023 with funding from
University of Toronto



17-00000-0000
17-00000-0000
17-00000-0000
17-00000-0000
17-00000-0000